

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

KAREN MARCUS, )  
 )  
 Plaintiff )  
 ) No. 3:13-0498  
 v. ) Judge Campbell/Brown  
 ) **Jury Demand**  
 THE FARM AT NATCHEZ TRACE, INC., )  
 )  
 Defendant )

O R D E R

A telephone conference was held with the parties to discuss the scheduling of a settlement conference. Magistrate Judge Griffin has advised that she not available until October for a settlement conference.

After discussion with the parties the matter is set for a settlement conference before the undersigned for **9:30 a.m., July 28, 2014.**

In order to allow the settlement conference to be conducted before the filing of dispositive motions the scheduling order (Docket Entry 15) is amended to provide that dispositive motions will be due **September 8, 2014**. Responses to dispositive motions shall be filed within **28 days** after service. Briefs shall not exceed **25 pages** without leave of Court. Optional replies, limited to **five pages**, shall be filed within **seven days** after service of the response. If dispositive motions are filed early, the response and reply dates are moved up accordingly.

The final pretrial conference and trial dates as previously set by Judge Campbell (Docket Entry 16) remain unchanged. The following will apply to the settlement conference:

The parties are advised that unless otherwise permitted, failure to be present with **full settlement authority**<sup>1</sup> could result in imposition of sanctions pursuant to Rule 16(f) of the Federal Rules of Civil Procedure. If the parties need authority from any other person, that person must be available by phone, and the Magistrate Judge **must approve the absence in advance**. The representative present at the settlement conference must be in a position to sign a binding agreement at the conclusion of the conference, unless the Magistrate Judge has been notified of the limitation in advance. **The parties are advised the settlement conference may well run past dinner and they should plan accordingly.**

1. **By 12:00 NOON on Wednesday, July 23, 2014**, Plaintiff and Defendant shall email to the undersigned at **brownchambers@tnmd.uscourts.gov**, *ex parte*, separate settlement conference statements which shall specify their respective settlement positions. These settlement conference statements shall not be filed with the Clerk nor served on the other parties. In their

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<sup>1</sup>All named parties and their attorneys **must** attend. Non-individual parties must have a senior official present unless excused in advance by the Magistrate Judge. Full settlement authority means the ability of the Plaintiff to accept the last offer and the Defendant to pay the last demand. If authority is limited, the party **must** notify the Magistrate Judge in advance of the conference.

respective statements, counsel for Plaintiff and Defendant shall make a candid assessment of the strengths and weaknesses of both sides of the case and shall give a good faith opinion of each client's probable success on the merits using a scale of 1 to 5, with 1 being the lowest and 5 being the highest. Nothing in the way of a jury speech shall be contained in the settlement conference statements.

- a) Each statement shall contain a summary of the parties' respective views of the law as to the theory of liability or defense.
  - (i) Plaintiff's statement shall contain an assessment from Plaintiff's viewpoint of Plaintiff's damages and the strengths and weaknesses of Plaintiff's position.
  - (ii) Defendant's statement shall contain an assessment of the Plaintiff's damages, Defendant's exposure to those damages, and the respective strengths and weaknesses of Defendant's position.
- c) Each statement shall contain an assessment of the economic cost of proceeding to trial as well as any appeal.
- d) Each statement shall recount, with specificity, the settlement discussions between the parties to date and the most recent demand offer as each side has made.
- e) Each statement will describe any particular obstacles or impediments to settlement.

f) Each settlement conference statement also shall contain a statement of counsel's best judgment as to the amount which should be paid or received by his client in a settlement of the case based on counsel's evaluation and opinion and after a full discussion with the client.

g) Each statement shall include the maximum amount the Defendant is willing to pay and the minimum amount the Plaintiff is willing to accept at the present time,<sup>2</sup> and any other terms on which the client insists.

2. In the event offers and demands have not previously been made, the parties shall exchange offers and demands **at least three working days prior to the July 28, 2014, conference.**

3. Counsel for each party may present a **brief** opening statement at the beginning of the settlement conference. Following these statements, the Magistrate Judge will normally meet separately with the parties. Once the separate meetings have concluded, negotiations will proceed as necessitated by the particular case.

It is so **ORDERED**.

/s/ Joe B. Brown  
JOE B. BROWN  
United States Magistrate Judge

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<sup>2</sup>Essentially, the parties shall provide their "bottom line." However, the parties should be prepared to negotiate further from these figures during the course of the settlement conference.